

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CECIL DUDGEON,

V.

HENRY RICHARDS,

Petitioner,

## Respondent.

No. C09-5299 FDB

**ORDER ADOPTING REPORT AND  
RECOMMENDATION DISMISSING  
HABEAS PETITION WITH PREJUDICE**

This matter comes before the Court on the Report and Recommendation of the Magistrate

Judge that Petitioner's request for habeas corpus relief be denied and the petition be dismissed with prejudice. The Report and Recommendation finds that of the six grounds for relief raised by Petitioner, two of the claims are time barred, three are unexhausted and procedurally barred and one is without merit. The Petitioner has filed objections to the Report and Recommendation.

Petitioner's objections are simply a restatement of the argument that has been exhaustively and thoroughly analyzed by the Magistrate Judge. As detailed by the Report and Recommendation, Petitioner's first and second habeas claims challenging his sexually violent predator conviction are time-barred under 28 U.S.C. § 2244(d). Petitioner failed to properly exhaust his third, fourth and sixth claims and, as he has previously filed a personal restraint petition, he is now procedurally barred from presenting those claims. In addition, Petitioner has made no showing of cause and prejudice or actual innocence. Finally, Petitioner's fifth claim for relief is without merit as the Washington Court of Appeals' rejection of this claim was not contrary to or an unreasonable application of clearly established federal law.

The Court, having reviewed the petition for writ of habeas corpus, the response, the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation,, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) Petitioner's writ of habeas corpus [Dkt. 3] is **DENIED** and this action is **DISMISSED WITH PREJUDICE**.
- (3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, a certificate of appealability is **DENIED** with respect to all six claims asserted by Petitioner in his habeas petition.
- (4) The Clerk is directed to send copies of this Order to Petitioner, counsel for Respondent and to the Hon. Karen L. Strombom.

DATED this 29<sup>th</sup> day of January, 2010.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE